

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

ORIGINAL

3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
TELEPHONE (202) 424-7500
FACSIMILE (202) 424-7647

NEW YORK OFFICE
405 LEXINGTON AVENUE
NEW YORK, NY 10174

August 22, 2000

DOCKET FILE COPY ORIGINAL

RECEIVED

AUG 22 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, S.W., Suite TW-A325
Washington, D.C. 20554

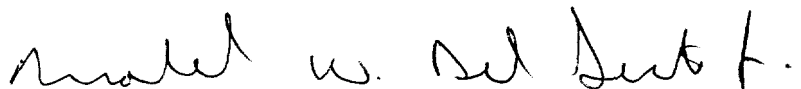
**Re: File No. NSD-L-00-95; CC Docket 96-98;
Reply Comments of RCN Telecom Services, Inc.**

Dear Secretary Salas:

On behalf of RCN Telecom Services, Inc. ("RCN"), enclosed please find an original and four (4) copies of RCN's reply comments in the above-referenced docket. Please date stamp and return the enclosed extra copy. Concurrent with this filing, RCN is submitting two (2) copies of its reply comments to the Network Services Division.

Should you have any questions with respect to this matter, please do not hesitate to call Ron Del Sesto at (202) 945-6923.

Respectfully submitted,



Ronald W. Del Sesto, Jr.

Enclosure

No. of Copies rec'd 014
List A B C D E

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

AUG 22 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	File No. NSD-L-00-95
New Jersey Board of Public Utilities)	
Petition for Delegated Authority to)	
Implement Number Conservation)	CC Docket No. 96-98
Measures)	

**REPLY COMMENTS OF
RCN TELECOM SERVICES, INC.**

RCN Telecom Services, Inc. ("RCN") by undersigned counsel and pursuant to the Common Carrier Bureau's July 7, 2000 Public Notice,¹ submits its reply comments in the above-captioned proceeding. RCN devotes these reply comments to supporting the position espoused by various commenting parties. In particular, RCN joins the comments of Focal Communications Corporation ("Focal"), Sprint Corporation ("Sprint"), and the United States Telecom Association ("USTA") in opposing the implementation of number rationing for a period of six (6) months following the implementation of a new area code relief plan.

I. Introduction

In its comments, RCN conditionally supported the Board's petition for delegated authority from the Federal Communications Commission ("Commission") to implement number rationing for a period of six (6) months following the implementation of area code relief. RCN's support rested on the Commission adopting certain safeguards in delegating such authority to the Board. RCN

¹ *Common Carrier Bureau Seeks Comment on the New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures*, NSD File No. L-00-95, Public Notice, DA 00-1508 (rel. July 7, 2000).

suggested that the Commission grant the Board the ability to deviate from the rationing plan if a carrier provided proof of a special need. Further, RCN's support hinged on the ability of the carrier to appeal to the Common Carrier Bureau for expedited relief from a decision by the Board to assign numbering resources outside of the rationing plan if the carrier thought the Board was acting inequitably.² For the reasons detailed below, RCN believes that it is premature to grant the Board the authority to engage in number resource rationing, regardless of any safeguards imposed on the Board.

II. The Commission Should Not Allow the New Jersey Board to Ration Numbers for Six Months Following the Implementation of Area Code Relief

As noted in Focal's comments, rationing may prevent carriers from receiving the codes that are needed in order to provide service.³ By limiting carriers access to numbering resources, rationing threatens to negatively impact competition as new carriers are unable to obtain the resources they need. Further, rationing is not a number conservation measure but rather a means to artificially slow the demand for numbering resources.⁴ Given the negative impact of rationing on competition, rationing should not be allowed except in special circumstances.

While the Board is correct in noting that the Commission granted both the Florida Public Service Commission and the Massachusetts Department of Telecommunications and Energy the authority to leave rationing in place for a period of six (6) months following the implementation of

² See *RCN's Comments*, at pp. 4-5

³ See *Focal's Comments*, at pp. 2-3.

⁴ See *Sprint's Comments*, at p. 3, n.9.

area code relief,⁵ circumstances have changed since the Commission delegated such authority. Most importantly, the Commission has adopted new rules governing the distribution of numbering resources.⁶ Under the new rules adopted by the Commission, carriers must verify their need in order to obtain both initial and growth numbering codes. Carriers receive initial codes if the carrier is able to provide service within sixty (60) days of activating the numbering resources. Growth codes are distributed to carriers that have no more than a six-month supply of numbering codes.⁷ The Commission further determined that carriers should receive numbering resources on a “first-come, first-served basis.”⁸ Thus, carriers receiving numbering resources are subject to a regime that requires an extensive demonstration of need. To further restrict the ability of carriers to obtain numbering resources through the use of rationing procedures threatens to severely restrict the ability of both new market entrants and other competitive providers to provide innovative services and to respond to the demands of the marketplace.

Aside from the negative impact on competition, it is inconsistent with the new rules to assign numbering resources through the use of a lottery. As set out above, numbering resources are distributed on a needs basis. Since rationing does not provide carriers that have demonstrated the requisite level of need with numbering resources but instead only with the chance to receive such

⁵ See *New Jersey Board's Petition*, at p. 4.

⁶ See *In the Matter of Numbering Resource Optimization*, CC Dkt. No. 99-200, FCC 00-104, *Report and Order and Further Notice of Proposed Rulemaking*, ¶¶ 88-91 (rel. March 31, 2000) (“*Numbering Order*”).

⁷ See 47 C.F.R. § 52.15 (2000).

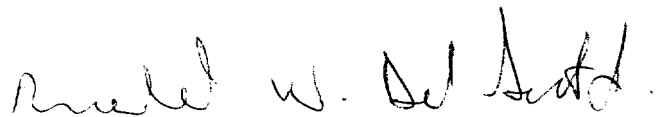
⁸ *Id.* at ¶ 92.

resources, it is inconsistent with the Commission's rules to allow the Board to assign numbers in this manner.⁹

III. Conclusion

For the reasons set out above, RCN respectfully asks that the Commission not provide the Board with the authority to maintain rationing procedures for a period of six (6) months following the implementation of area code relief. Rather than allowing the Board to deviate from the new numbering rules prior to evaluating their efficacy, the Commission should reject the Board's request for such authority.

Respectfully submitted,



Joseph Kahl
RCN Telecom Services
105 Carnegie Center
Princeton, NJ 08540
(609) 734-7502 (Tel.)
(609) 734-6167 (Fax)

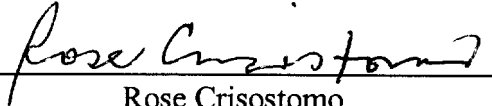
Russell M. Blau
Ronald W. Del Sesto, Jr
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
(202) 424-7500 (Tel.)
(202) 424-7645 (Fax)

Dated: August 22, 2000

⁹ See *Sprint's Comments*, at p. 3.

CERTIFICATE OF SERVICE

I, **Rose Crisostomo**, hereby certify that on August 22, 2000 the foregoing document was served on the individuals listed on the following service list by first-class U.S. Mail (or by overnight delivery/hand-delivery, as marked*).


Rose Crisostomo

(*BY HAND-DELIVERY)

Magalie Roman Salas, Commission Secretary*
Office of the Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Suite TW-A325
Washington, DC20554

Jeanne Grimes*
Common Carrier Bureau
Federal Communications Commission
The Portals
445 - 12th Street, S.W.
Washington, DC 20554

Diane G. Harmon, Deputy Chief*
Common Carrier Bureau
Network Services Division
Federal Communications Commission
Suite 6-A207
445 - 12th Street, S.W.
Washington, DC 20554

Yog R. Varma, Deputy Chief*
Common Carrier Bureau
Federal Communications Commission
Suite 500H
445 - 12th Street, S.W.
Washington, DC 20554

International Transcription Service*
1231 - 20th Street, N.W.
Washington, DC 20054

Lawrence E. Strickling, Chief*
Common Carrier Bureau
Federal Communications Commission
Suite 500H
445 - 12th Street, S.W.
Washington, DC 20554

L. Charles Keller, Chief*
Common Carrier Bureau
Network Services Division
Federal Communications Commission
Suite 6-A207
445 - 12th Street, S.W.
Washington, DC 20554

Michael F. Altschul
Randall S. Coleman
Lolita D. Smith
Cellular Telecommunications Industry Association
Suite 800
1250 Connecticut Avenue, N.W.
Washington, DC 20036

Peter Arth, Jr.
Lionel B. Wilson
Helen M. Mickiewicz
Attorneys for the Public Utilities Commission
State of California
505 Van Ness Avenue
San Francisco, CA 94102

Maryland Office of People's Counsel
6 St. Paul Street
Suite 2102
Baltimore, MD 21202-6806

Carol Ann Bischoff
Terry Monroe
Competitive Telecommunications Association
1900 M Street, N.W., Suite 800
Washington, DC 20036

Michael A. Sullivan
15 Spencer
Somerville, MA 02144

E. Barclay Jackson
New Hampshire Public Utilities Commission
8 Old Suncook Road
Concord, NH 03301

Gary Crabtree
Belton School District #124
Director Finance/Support Services
110 West Walnut
Belton, MO 64012

Kathryn Marie Krause
Eldridge A. Stafford
US West Communications, Inc.
1020 - 19th Street., N.W., Suite 700
Washington, DC 20036

Norman D. Cunningham
Assistant Superintendent, Support Services
Cypress-Fairbanks Independent School District
12510 Windfern Road
Houston, TX 77064-3108

Maine Public Advocate
State House Station 112
Augusta, ME 04333

Jay C. Keithley
Attorney for Sprint Corporation
401 - 9th Street, N.W.
Suite 400
Washington, DC 20004

Jack A. Holzer
Communications Services Manager
Johnson County Sheriff's Office
125 North Cherry Street
Olathe, KS 66061

Emprise Bank
3900 West Central Avenue
Wichita, KS 67203-4987

Howard J. Symons
Sara F. Seidman
Amy L. Bushyeager
Counsel for AT&T Corp.
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC
701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20004

Sandra K. Williams
Attorney for Sprint Corporation
6360 Spring Parkway
Mailstop: KSOPHE0302-3D203
Overland Park, KS 66251

Lisa L. Karstetter
Programmer/Telecom Analyst
City of Olathe, Kansas
P.O. Box 178
100 West Santa Fe Drive
Olathe, KS 66061

R. Gregg Reep, Mayor
The City of Warren
P.O. Box 352
Warren, Arkansas 71671

Florida Office of Public Counsel
c/o Florida Legislature
111 West Madison Street, #812
Tallahassee, FL 32399-1400

J.G. Harrington
Laura Roecklein
Counsel for Cox Communications, Inc.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Ave, N.W.
Suite 800
Washington, DC 20036

Susan M. Eid
Richard A. Karre
MediaOne Group, Inc.
1919 Pennsylvania Ave, N.W.
Suite 610
Washington, DC 20006

Jean Dols
Interim C.I.O.
Harris County Hospital District
P.O. Box 66769
Houston, TX 77266

Indiana Office of Utility Consumer Counsel
100 North Senate Avenue
Room N501
Indianapolis, IN 46204-2215

George N. Barclay
Michael J. Ettner
General Services Administration
1800 F Street, N.W.
Room 4002
Washington, DC 20405

John M. Goodman
Attorney for Bell Atlantic
1300 I Street, N.W.
Suite 400-West
Washington, DC 20005

Lawrence G. Malone
Public Service Commission of
the State of New York
Three Empire State Plaza
Albany, NY 12223-1350

John W. Hunter
Lawrence E. Sarjeant
Linda L. Kent
Julie E. Rones
Keith Townsend
United States Telecom Association
1401 H Street, N.W.
Suite 600
Washington, DC 20005

Jennifer Fagan
Office of Regulatory Affairs
Public Utility Commission of Texas
1701 North Congress Avenue
Austin, TX 78711

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P.O. Box 152092
Irving, TX 75015

Texas Office of Public Utility Counsel
1701 North Congress Avenue.
Suite 9-180
P.O. Box 78701
Austin, TX 78701

M. Susan Savage, Mayor
Office of the Mayor
City of Tulsa
200 Civic Center
Tulsa, OK 74103

David Cosson
John Kuykendall
Counsel for Rural Independent Competitive Alliance
Kraskin, Lesse & Cosson, LLP
2120 L Street, N.W.
Suite 520
Washington, DC 20037

Louise M. Tucker
Telcordia Technologies, Inc.
2020 K Street, N.W.
Suite 400
Washington, DC 20006

James T. Hannon
Counsel for US West Communications, Inc.
1020 19th Street, N.W.
Suite 700
Washington, DC 20036

Joseph Assenzo
Sprint PCS
4900 Main Street, 11th Floor
Kansas City, MO 64112

Judith St. Ledger-Roty
Todd D. Daubert
Jennifer Kashatus
Counsel for Personal Communications
Industry Association
Kelley Drye & Warren LLP
1200 - 19th Street, N.W.
Suite 500
Washington, DC 20036

Sue Frank, Mayor
Raytown
10000 East 59th Street
Raytown, MO 64133

John S. DiBene
Roger K. Toppins
Alfred G. Richter, Jr.
Attorneys for SBC Communications, Inc.
1401 I Street, N.W.
Suite 1100
Washington, DC 20005

Michael S. Slomin
Telcordia Technologies, Inc.
445 South Street, MCC-1J130R
Morristown, NJ 07960

Leon Kestenbaum
Counsel for Sprint
401 - 9th Street, N.W.
Suite 400
Washington, DC 20004

Henry G. Hultquist
Mary De Luca
Chuck Goldfarb
Mark T. Bryant
MCI WorldCom, Inc.
1801 Pennsylvania Avenue., N.W.
Washington, DC 20006

James S. Blaszk
Counsel for Ad Hoc Telecommunications
Users Committee
Levine, Blaszk, Block & Boothsby LLP
2001 L Street, N.W.
Suite 900
Washington, DC 20036

Mark C. Rosenblum
Roy E. Hoffinger
James H. Bolin, Jr.
AT&T Corporation
295 North Maple Avenue
Room 1130M1
Basking Ridge, NJ 07920

Marlene L. Johnson
Chairperson
District of Columbia Public Service Commission
717 - 14th Street, N.W.
Washington, DC 20005

James Bradford Ramsay
National Association of Regulatory
Utility Commissioners
1101 Vermont Avenue, N.W.
Suite 200
Washington, DC 20005

Michael B. Adams, Jr.
Benjamin H. Dickens, Jr.
Blooston, Mordkofsky, Jackson & Dickens
2120 L Street, N.W.
Washington, DC 20037

Jonathan M. Chambers
Vice President-Federal Regulatory Affairs
Sprint PCS
401 - 9th Street, N.W.
Suite 400
Washington, DC 20004

Peggy Arvanitas
P.O. Box 8787
Seminole, FL 33705

Teya M. Penniman
Attorneys for Oregon Public Utility Commission
Room 330
550 Capitol Street, N.E.
Salem, OR 97310-1380

Jonathan M. Askin
Teresa K. Gaugler
Association for Local Telecommunications Services
888 - 17th Street, N.W.
Suite 900
Washington, DC 20006

Richard Askoff
Joe A. Douglas
National Exchange Carriers Association, Inc.
80 South Jefferson Road
Whippany, NJ 07981

Pennsylvania Office of Consumer Advocate
555 Walnut Street
54th Floor, Forum Place
Harrisburg, PA 17101

Jonathan E. Canis
Todd D. Daubert
Counsel for 2nd Century Communications, LLP
Kelley, Drye & Warren LLP
1200 - 19th Street, N.W.
Suite 500
Washington, DC 20036

Robert J. Aamoth
Todd D. Daubert
Attorneys for Competitive Telecommunications
Association
Kelley, Drye & Warren LLP
1200 19th Street, N.W.
Suite 500
Washington, DC 20036

Missouri Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Robert L. Hoggarth
Harold Salters
Personal Communications Industry Association
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561

Cynthia B. Miller
Bureau of Intergovernmental Liaison
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Joel H. Cheskis
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101

John T. Scott, III
Vice President and Deputy General Counsel
Regulatory Law
Verizon Wireless
1001 Pennsylvania Ave, N.W.
Washington, DC 20004

Robert Foosaner
Lawrence R. Krevor
Laura L. Holloway
James B. Goldstein
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

Marc D. Poston
Missouri Public Service Commission
301 West High Street
Room 750
Jefferson City, MO 65101

The Office of People's Counsel
District of Columbia
1133 - 15th Street, N.W.
Suite 500
Washington, DC 20005

Andre J. Lachance
GTE Service Corporation
1850 M Street, N.W.
Washington, DC 20036

L. Marie Guillory
Daniel Mitchell
National Telephone Cooperative Association
4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203

Elizabeth H. Liebschutz
State of New York Dept. of Public Service
Three Empire State Plaza
Albany, NY 12223

Brian Thomas O'Connor
Robert A. Calaff
Vicestream Wireless Corporation
1300 Pennsylvania Avenue, N.W.
Suite 700
Washington, DC 20004

The Utility Reform Network
711 Van Ness Avenue
Suite 350
San Francisco, CA 94102

Trina Bragdon, Esq.
Maine Public Utilities Commission
242 State Street
State House Station 18
Augusta, ME 04333

James D. Mullins
Emergency Medical Services Authority
1417 North Lansing Avenue
Tulsa, OK 74106

Richard W. Rindler
Jeanne W. Stockman
Counsel for Allegiance Telecom, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, DC 20007

James U. Troup
Robert H. Jackson
Attorneys for Iowa Telecommunications
Services, Inc.
Arter & Hadden LLP
1801 K Street, N.W., Suite 400K
Washington, DC 20006-1301

Deanne M. Brutts
Frank B. Wilmarth
Bohdan R. Pankiw
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Russell C. Merbeth
Daniel F. Gonos
Winstar Communications, Inc.
1146 - 19th Street, N.W.
Washington, DC 20036

Douglas I. Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

Lawrence Ausubel, Co-President
Peter Cramton, Chairman
Paul Milgrom, Co-President
Counsel for Maine Public Utilities Commission
Spectrum Exchange Group, LLC
2920 Garfield Terrace, N.W.
Washington, DC 20008

Cheryl A. Tritt
Frank W. Krogh
Counsel for NeuStar, Inc.
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, DC 20006-1888

California Office of Ratepayers Advocates
505 Van Ness Avenue
Room 4202
San Francisco, CA 94102

Daniel Gonzalez
R. Gerard Salemm
Esther Northrup
Nextlink Communications, Inc.
1730 Rhode Island Ave, N.W.
Suite 1000
Washington, DC 20036

Richard W. Rindler
Ronald W. Del Sesto, Jr., Esq.
Counsel for RCN Telecom Services, Inc.
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007

Charles Ghini
Deputy Chief Information Officer
State Technology Officer
Florida Department Management Services
4030 Esplanade Way, Suite 180
Tallahassee, FL 32399-0950

Brian Conboy
Thomas Jones
Counsel for Time Warner Telecom
Willkie Farr & Gallagher
Three Lafayette Center
1155 - 21st Street, N.W.
Washington, DC 20036

Daniel M. Waggoner
Robert S. Tanner
Dale Dixon
Davis Wright Tremaine, LLP
1500 K Street, N.W.
Washington, DC 20005

Marsha N. Cohan
Professor of Law
Hastings College of Law
University of California
200 McAllister Street
San Francisco, CA 94102